

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 1233 - SB 1367

March 6, 2021

**SUMMARY OF BILL:** Creates the *Tennessee Accommodations for All Children Act*. Requires a public school to provide a reasonable accommodation to a person who has conveyed through a written request they are unwilling or unable to use multi-occupancy restrooms, changing facilities designated for the person's sex and located within a public school building, or sleeping quarters while attending a school-sponsored activity. Authorizes, within two years of a claim, a person who has provided a written request for reasonable accommodation to bring a civil action against a public school under certain circumstances and establishes certain damages which may be awarded if the person's claim prevails.

**ESTIMATED FISCAL IMPACT:**

**Other Fiscal Impact - The proposed language may result in increases in state and local expenditures associated with compliance measures and potential civil litigation; however, due to multiple unknown factors, a precise fiscal impact cannot be determined.**

Assumptions:

- The legislation defines reasonable accommodation as access to a single-occupancy restroom or changing facility, or use of an employee restroom or changing facility. Reasonable accommodation does not include access to a restroom or changing facility that is designated for use by members of the opposite sex while persons of the opposite sex are present or could be present.
- Because the language of the bill does not define "person", it is assumed that the legislation would apply to any student, teacher, or member of the public.
- A person who has requested reasonable accommodation may take civil action against the school if the school denies the request and cannot demonstrate an undue hardship.
- A person who provides written request for reasonable accommodation but subsequently encounters the opposite sex in a restroom or changing facility or is required by the school to share sleeping quarters with the opposite sex, unless the other persons are family members, may pursue civil action against the school.
- It is assumed such person could bring civil action in cases where schools approve or deny such person's request for a reasonable accommodation.
- Title VII of the Civil Rights Act of 1964 requires employers to protect the rights and confidentiality of transgender employees.

- The Family Educational Rights and Privacy Act (FERPA) prohibits schools from disclosing certain confidential information contained in a student's educational record, including if they are transgender.
- The extent and timing of measures schools will take to comply with reasonable accommodation requests while complying with student and employee privacy laws, the extent of any legal exposure which may be encountered, and the extent of any damages which may be awarded to private parties is unknown. Due to multiple unknown factors, the extent and a timing of civil litigation that may occur as a result of this legislation cannot be precisely estimated; therefore, the fiscal impact to state and local expenditures cannot reasonably be determined.

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Bojan Savic". The signature is written in a cursive, flowing style.

Bojan Savic, Interim Executive Director

/ah